

NOT FOR PUBLICATION**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

GORDON BRYAN AND DEBORAH  
BRYAN,

Interpleader-Plaintiffs,

v.

CELSO CHAVARRIA,

Interpleader-Defendants.

CIVIL NO. 07-2308 (SRC)

**ORDER TO SHOW CAUSE**

**IT APPEARING** that on May 16, 2007 Gordon and Deborah Bryan ("Plaintiffs") filed a Complaint for Interpleader pursuant to 28 U.S.C. §§ 1335, 1397, and 2361 against Celso Chavarria ("Defendant"); and it further

**APPEARING** that 28 U.S.C. § 1335 provides that district courts shall have original jurisdiction over "any civil action of interpleader... filed by any person, firm, or corporation, association, or society having in his or its custody or possession or property of the value of \$500 or more," 28 U.S.C. § 1335 (2000); and it further

**APPEARING** that the purpose of such an interpleader action is to "enable[] a person holding money or property to compel two or more persons asserting mutually exclusive rights to the fund to join and litigate their respective claims in one action," *N.Y. Life Distribs. v. Adherence Grp.*, 72 F.3d 371, 374 (3d Cir. 1995); and it further

**APPEARING** that the property that is the subject of the Plaintiffs' complaint is a

\$5,000 deposit paid by Defendant to Plaintiffs and held in escrow by Gregg Mele; and it further

**APPEARING** that because the subject property is being held in trust by Gregg Mele, and is not in the possession of Plaintiffs, that Plaintiffs are not “stakeholder[s] [with a] bona fide fear of adverse claims,” *CNA Ins. Cos. v. Waters*, 926 F.2d 247, 251 (3d Cir. 1991); and it further

**APPEARING** that if Plaintiffs are not stakeholders, this Court does not have jurisdiction over this interpleader action, see *Kitzer v. Phalen Park State Bank of St. Paul*, 379 F.2d 650, 652 (8th Cir. 1967) (“If the bank is not a stakeholder of “property” under the Act it does not qualify to utilize the interpleader action to resolve the present controversy”);

**IT IS THEREFORE** on this 4th day of June, 2007, hereby

**ORDERED** that Plaintiffs shall show cause in writing before the undersigned by June 25, 2007, why this petition should not be dismissed for lack of jurisdiction.

/s/ Stanley R. Chesler  
Stanley R. Chesler, U.S.D.J.

Dated: June 4, 2007